

REMARKS

Claims 8-12 and 14-16 are pending. Claims 8-12 and 14-15 have been withdrawn as being directed to a non-elected invention. Claim 16 is under current examination.

The Office Action rejects claim 16 under the judicially created doctrine of obviousness-type double patenting over U.S. Patent No. 6,677,648 that issued based on this application's parent application. Applicants have attached hereto a Terminal Disclaimer, the filing of which is believed to obviate this rejection. Reconsideration and withdrawal of the rejection under the judicially created doctrine of obviousness-type double patenting are thus respectfully requested.

The Office Action also rejects claim 16 under 35 U.S.C. § 102(b) as being anticipated by Jacobs et al. (U.S. Patent No. 4,027,320). This rejection is traversed.

Applicants note that present claim 16 is directed to an "MOS transistor having a silicon semiconductor portion for its channel region, a silicon oxide film formed on said silicon semiconductor portion and a gate electrode formed on said silicon oxide film, wherein said silicon oxide film contains Kr, and **a threshold voltage of said MOS transistor is substantially equal to that of an MOS transistor having a silicon oxide film without Kr**" (present claim 16, emphasis added).

Thus, the semiconductor according to the presently claimed invention is formed by adjusting its threshold voltage so as to be substantially equal to that of a normal MOS transistor without Kr.

If a normal MOS transistor containing Kr is formed with no regard to the above condition, a threshold voltage would be different from that of a normal MOS transistor without Kr, due to the difference in methods.

Jacobs et al. fails to disclose or suggest the above-discussed condition required by the presently claimed invention. Naturally, a threshold voltage of the MOS transistor of Jacobs et al. would be different from that of a normal MOS transistor without Kr, unless a MOS transistor is made to realize the above-discussed conditioned required by the presently claimed invention.

For at least the above reasons, it is respectfully submitted that elements of the present claim 16 is missing from Jacobs et al. and therefore the invention of present claim 16 can not be anticipated by Jacobs et al. (and also would not have been obvious over Jacobs et al.). Thus, reconsideration and withdrawal of the rejection of claim 16 under 35 U.S.C. § 102(b) are respectfully requested.

In view of the above amendments and remarks, Applicant respectfully submits that this application is in condition for allowance. Favorable consideration and prompt allowance of the claims are earnestly solicited. Should the Examiner believe anything further is desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

In the event this paper is not timely filed, Applicant respectfully petitions for an appropriate extension of time. The Commissioner is authorized to charge payment for

any additional fees which may be required with respect to this paper to Counsel's Deposit Account 01-2300, **referring to client-matter number 108390-00056**. Thus, please charge any fee deficiency or credit any overpayment to Deposit Account No. 01-2300, making reference to Attorney Docket No. 106145-00038, **referencing docket number 108390-00056**.

Respectfully submitted,


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